

**STATE BOARD OF EQUALIZATION**

March 23, 1970

Dear Mr. X-----,

Your letter addressed to Mr. H. A. Bindman of our Hollywood office has been referred to this office for reply.

We understand that you are a "music typesetter" whose work is identical with the work of music engraving. You prepare a black on white proof for the purpose of reproduction on an offset press. Because it is your understanding that linotype operators and music engravers are not required to pay the sales tax, you request that your activities similarly be declared exempt.

The sales tax applies to the gross receipts of retailers from their sales of tangible personal property at retail in this state. Tangible personal property is defined in Section 6016 of the Revenue and Taxation Code to mean "personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses." The proofs produced by you clearly fall within this definition and, accordingly, their sale at retail is subject to tax.

It is true that the term "sale" as used in the law does not include (a) the fabrication or transfer by a typographer of composed type or reproduction proofs thereof for use in the preparation of printed matter, or (b) the fabrication or transfer of such reproduction proofs when the fabrication is for and the transfer is to, a printer or publisher for use in printing. "Reproduction proofs" means "a direct proof, copy, likeness, or photographic image of type set by any typesetting process, and used for reproduction purposes." [See our BTGB 62-3, copy enclosed.] Thus typographers generally are not required to pay tax on the receipts from their transfers of reproduction proofs. However, "type" as used in the bulletin does not, in our opinion, include art work, musical notations or lines drawn so as to form a staff. Thus it is our opinion that your activities are not exempt under Section 6010.3.

We note that we have no record of having regarded "music engraving" as exempt from the tax. To the extent that the work performed by a music engraver is the same as the work performed by you of course the tax would be equally applicable to the engraver's activities.

Very truly yours,

Gary J. Jugum
Assistant Tax Counsel
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